Supreme Court, U.S.
FILED

02 1729 MAY 27 2003

OFFICE OF THE CLERK

Case Number _____

IN THE
SUPREME COURT OF THE UNITED STATES

Lisa Barclay
Ajamu M. Kafele
PETITIONERS
Vs.
FRANKLIN COUNTY, OHIO, et. al.
RESPONDENTS

ON PETITION FOR A WRIT OF MANDAMUS TO
SIXTH CIRCUIT APPEALS COURT

Lisa Barclay
Ajamu M. Kafele
Petitioners
947 E. Johnstown Rd., #142
Gahanna, Ohio 43230
614.520.4553

85 pp

QUESTIONS PRESENTED

1) Have the Sixth Circuit Appeals Court Panel Judges, GUY, SUHRHEINRICH, and BATCHELDER, Circuit Judges, along with District Judge SARGUS, denied Petitioners due process and/or equal protection under the law by refusing to issue an Order to uphold the U.S. Constitutional protected rights of Petitioners, pursuant, but not limited to, Article VI, Clause 2, 4th, 5th, 14th Amendments (Bill of Rights), and restrain by way of an injunction the Respondent via its agents from depriving Petitioners of their property (real and monetary), and their liberties under color of lawful authority?

2) Have the Sixth Circuit Appeals Court Panel Judges, GUY, SUHRHEINRICH, and BATCHELDER, Circuit Judges, denied Petitioners due process and/or equal protection under the law by refusing to issue an Order to remove District Judge Sargus from the case, where Judge Sargus will not, *sua sponte*, fulfill his duties pursuant to Title 28 U.S.C. § 144 and § 455 et seq.

3) What is the remedy the Petitioners have to cease the governments' actions to deprive Petitioners of their properties (real and monetary), and liberties when they are clearly doing so by trespassing on the U.S. Constitutional guarantees, and/or Federal rights, privileges, and immunities of petitioners under law, if what Petitioners have asserted is not adequate to require injunctive relief?

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of the parties to the proceeding in the court whose judgment is the subject of this petition are as follows:

1) Judge Ralph B. Guy, Judge Richard F. Suhrheinrich, Judge Alice M. Batchelder, Circuit Judges, at 100 E. Fifth St., Cincinnati, Ohio 45202;
2) Judge Edmund A. Sargus, Jr., District Court Judge, 85 Marconi Blvd., Columbus, Ohio 43215;
3) Offices/Agents/Officials of FRANKLIN COUNTY, OHIO: COMMON PLEAS COURT, OFFICE of the CLERK OF COURTS, OFFICE of the SHERIFF;
4) David W. Fais, Nodine Miller, John A. Connor, John P. Bessey, Lisa L. Sadler, David E. Cain, Michael H. Watson, Daniel T. Hogan, David L. Johnson, Patrick M. McGrath, Deborah O'Neill, Richard S. Sheward, Alan C. Travis, G. Gary Tyack in their individual capacity and as Judge for and/or with FRANKLIN COUNTY, OHIO;
5) James "Jim" Karnes, in their individual capacity and as Sheriff for and/or with FRANKLIN COUNTY, OHIO;
6) John O'Grady, in his individual capacity and as Clerk of Courts for and/or with FRANKLIN COUNTY, OHIO;
7) R.E. George Seigel, in his individual capacity and as Deputy-Sheriff for and/or with FRANKLIN COUNTY, OHIO;
8) Timothy Christy, in his individual capacity and as Corporal-Sheriff for and/or with FRANKLIN COUNTY, OHIO

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OPINIONS BELOW

The decision of the Sixth Circuit Appeals Court deny the Writ of Mandamus For Injunctive Relief appears at Appendix A of this petition, and is unpublished as far as Petitioners are aware of.

The decision of the United States District Court,Southern District of Ohio, Eastern Division deny the Motion For Injunctive Relief appears at Appendix B of this petition, and is unpublished as far as Petitioners are aware of.

JURISDICTION

The date on which the Sixth Circuit Appeals Court decided my case was May 13, 2003. A copy of that decision appears at Appendix A.

The Jurisdiction of this Court is invoked under U.S. Constitution, Article III, and 28 U.S.C. § 1651(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. U.S. Constitution, Article VI, Clause 2.
2. U.S. Constitution, Fourth Amendment
3. U.S. Constitution, Fifth Amendment.
4. U.S. Constitution, Fourteenth Amendment.

STATEMENT OF THE CASE

1. The Petitioners have filed a pending verified complaint in District Court, Southern District of Ohio, Eastern Division, case C2-03-0184, against the Respondents for the deprivation of their properties (real and monetary) without due process of law. See Appendix C, complaint, Appendix D, affidavits in support. Petitioners have asserted in their verified complaint that they have been deprived and/or are being deprived of their properties void of jurisdiction of the County and its agents to do so, without a notice and opportunity to be heard in open court, a trial of the facts, opportunity to cross examine adverse witnesses/evidence against them, and, not limited to, in defiance of sovereign lis pendens (common) law, and U.S. Supreme Court governing law (Supremacy Clause). Respondents efforts to deprive properties from Petitioners without lawful authority continues relentlessly to this day, and appears to be, being intentionally aided by the lower federal Courts in its failure to follow the law, Supreme Court and other court precedents. Pursuant to this Courts precedents, and 6th Circuit precedents, the Federal Courts have the jurisdiction and clear and indisputable **required** lawful duty to Order the relief request-an injunction by Petitioners.

2. Petitioners believe they have provide sufficient verified claims and causes for an injunction, in case 02-03-0184 (See Appendix D, affidavits, Appendix E, Motion For Injunction, Appendix F, Writ of Mandamus to 6th Circuit), to cease Respondents from continuing their unlawfully acts in violation of fundamental law. "Indeed, no more than [Affidavit] is necessary to make the prima facie case." UNITED STATES v. KIS, 658 F.2d 526 (7th Cir. 1981); certiorari denied, 50 U.S.L.W. 2169; S.Ct. March 22, 1982. Also, see BERGER v. U S, 255 U.S. 22 (1921) (finding an affidavit sufficient to invoke the operation of an act by a Judge), and NEAL v. STATE OF DELAWARE, 103 U.S. 370 (1880) (finding an affidavit prima facie evidence of a denial of Constitutional Rights and basis for judgment of the

same). However the lower courts have denied the relief requested (See Appendix A & B), without a hearing (opportunity to be heard in open court) and the opportunity to present evidence in support of injunctive relief, if needed. Such action appears to clearly deny Petitioners due process and/or equal protection of the law. "The Fourteenth Amendment provides that "[n]o State shall . . . deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1. To allege a violation of their substantive due process rights, the residents must assert either the "denial of a right, privilege, or immunity secured by the Constitution or by federal statute" or an official act which "'shocks the conscience' of the court." *Mertik v. Blalock*, 983 F.2d 1353, 1367-68 (6th Cir. 1993)." BOWERS, ET AL v. FLINT, 6th Cir. (2003). Also, see DÉJÀ VU OF CINTI v. UNION TOWNSHIP, 6th Cir. (2003) (finding a preliminary injunction for apparent violations of the 14th Amendment proper).

3. Additionally, Petitioners are of the belief, based on probable cause, and necessary inference, that District Judge Sargus has presided, and is presiding over the case of Petitioners without lawful authority and jurisdiction. See Appendix G, Amendment/Supplement to Writ of Mandamus, Affidavit of (sic) Bias. Judge Sargus, it would appear should have recused himself from the inception of the knowledge of his assignment to the case. As such, the Order of Judge Sargus appears to be without legal effect, and act of Coram Non Judice. The Appeals Court Judges are mandated as an operation of law to removed Judge Sargus from the case and recognized that the Order was void, and at the least, Ordered a hearing for injunctive relief before a new judge, so it appears.

REASON WRIT WILL AID THE COURT'S APPELLATE JURISDICTION

1. Petitioner contends that the reason the granting of this Writ will help the Court in its authority to review and de-

termine the proper course and will of the law, if it has not already been determined by operation of the law itself and/or this Court' precedents (or other competent precedents), is that this Writ will maintain the protections of the U.S. Constitution, and Federal laws that the people, like Petitioners, are to have with regard to life, liberty, or property, which this Court has said must be if this country is to reflect a civilized society.

2. Additionally, the granting of this Writ will, it appears, reiterate that the governments of the land, and their agents, cannot impose their will on the people in defiance of the Common Law, Constitution, Federal Laws, and this Court's governing precedents and deprive them of their life, liberty, and property without following its mandates.

EXCEPTIONAL CIRCUMSTANCES WARRANTING THE COURT'SDISCRETIONARY POWERS

1. A precedent, and now governing law, for seeking a Writ of Mandamus was reiterated in PULLIAM v. ALLEN, 466 U.S. 522 (1984), where this Court commented "Most interesting for our current purposes are the writs of prohibition and mandamus. The writs issued against a judge, in theory to prevent him from exceeding his jurisdiction or to require him to exercise it. Id., at 228-229. In practice, controlling an inferior court in the proper exercise of its jurisdiction meant that the King's Bench used and continues to use the writs to prevent a judge from committing all manner of errors, including departing from the rules of natural justice, proceeding with a suit in which he has an interest, misconstruing substantive law, and rejecting legal evidence...[T]he use of mandamus and prohibition [for] jurisdictional issues or to cases where the court has a clear duty to act [is proper]. See Roche v. Evaporated Milk Assn., 319 U.S. 21, 26 (1943). See also Bankers Life & Casualty Co. v. Holland, 346 U.S. 379, 382 -383 (1953); Will v. United States, 389 U.S. 90, 103 -104 (1967)."

2. When the lower Courts will not maintain and follow this

Courts precedents, and uphold the Constitution then this Court would appear to have the expressed obligation to see to it that such is done under its discretionary powers, specifically where the right to relief is a clear and well-established precedent or *Stare Decisis*. Petitioners believe that the attached Appendices will support the issuance of an Injunction, and/or preliminary injunction, and/or hearing for an injunction.

3. Petitioners would also humbly request that, if necessary, because Writ of Mandamus action is not quite the proper course of action, that this Court use its authority to address this matter as if it was submitted as a Writ of Certiorari. "Because the holding below appeared problematic in light of our precedents, we noted probable jurisdiction. 481 U.S. 1067 (1987)" PERALTA v. HEIGHTS MEDICAL CENTER, INC., 485 U.S. 80 (1988).

WHY ADEQUATE RELIEF CANNOT BE OBTAINED FROM ANY OTHER COURT

1. Petitioner has traverse the channels of the lower Courts for the injunctive relief and has not been afforded the relief requested. The Appeals Court has entered its view of the matter, and Petitioners believes it is wholly inconsistent with due process and equal protection of the law, and this Courts precedents, thereby given way to arbitrary action of the lower court(s). "The guarantees of the Bill of Rights are the protecting bulwarks against the reach of arbitrary power." GLASSER v. U.S., 315 U.S. 60 (1942). "The touchstone of due process is protection of the individual against arbitrary action of government, Dent v. West Virginia, 129 U.S. 114, 123 (1889)." WOLFF v. McDONNELL, 418 U.S. 539 (1974). **Petitioners have been left without an adequate remedy to stop the continual threat of harm to them and their property.** A couple of the Respondents have as recently as May 15, 2003 engaged in what Petitioner believe is mail fraud to cause injury, again, to Petitioner's property (real and monetary) in violation of 18

U.S.C. 1964 (R.I.C.O.).

2. The conclusions of the Appellate Court for denying the injunctive relief requested appear to be in direct opposition to this Court's holdings, thus ill affording Petitioners adequate relief from the lower court. The precedents of this Court hold that (1) there is no bar to Petitioners proceeding in Federal Court for the violation(s) of due process and equal protection of the law by Franklin County, Ohio, et al, and other named claims for remedy of injuries and damages incurred and suffered, and that the case should immediately go forward; (2) That the doctrine of abstention does not apply when there is a purported pending "state" action which is Constitutionally infirm, or where the Judge is proceeding in a manner that violates the Constitutional guarantees of a party; (3) And, that the Anti-Injunction act has no barring on Federal Courts enjoining "state" action, foreclosure or otherwise, not withstanding jurisdiction of the "state" court in this civil action, when there are violations of U.S. Constitution protected rights, and Federal laws, e.g. Civil Rights Laws, especially when they strike at that fundamental and rudimentary mandates of law.

> "Section 1983 was thus a product of a vast transformation from the concepts of federalism that had prevailed in the late 18th century when the anti-injunction statute was enacted. The very purpose of 1983 was to interpose the federal courts between the States and the people, as guardians of the people's federal rights - to protect the people from unconstitutional action under color of state law, "whether that action be executive, legislative, or judicial." Ex parte Virginia, 100 U.S., at 346 . In carrying out that purpose, Congress plainly authorized the federal courts to issue injunctions in 1983 actions, by expressly authorizing a "suit in equity" as one of the means of redress. And this Court long ago recognized that federal injunctive relief against a state court proceeding can in some circumstances

be essential to prevent great, immediate, and irreparable loss of a person's constitutional rights. Ex parte Young, 209 U.S. 123 ; cf. Truax v. Raich, 239 U.S. 33 ; Dombrowski v. Pfister, 380 U.S. 479 . For these reasons we conclude that, under the criteria established in our previous decisions construing the anti-injunction statute, 1983 is an Act of Congress that falls within the "expressly authorized" exception of that law.

In so concluding, we do not question or qualify in any way the principles of equity, comity, and federalism that must restrain a federal court when asked to enjoin a state court proceeding. These principles, in the context of state criminal prosecutions, were canvassed at length last Term in Younger v. Harris, 401 U.S. 37 , and its companion cases. They are principles that have been emphasized by this Court many times in the past. Fenner v. Boykin, 271 U.S. 240 ; Spielman Motor Sales Co. v. Dodge, 295 U.S. 89 ; Beal v. Missouri Pac. R. Co., 312 U.S. 45 ; Watson v. Buck, 313 U.S. 387 ; Williams v. Miller, 317 U.S. 599 ; Douglas v. City of Jeannette, 319 U.S. 157 ; Stefanelli v. Minard, 342 U.S. 117 ; Cameron v. Johnson, 390 U.S. 611 . Today we decide only that the District Court in this case was in error in holding that, because of the anti-injunction statute, it was absolutely without power in this 1983 action to enjoin a proceeding pending in a state court under any circumstances whatsoever." MITCHUM v. FOSTER, 407 U.S. 225 (1972).

CONCLUSION

1. Petitioners pray this Court will find in their favor, grant the Writ of Mandamus Ordering the relief requested of an Injunction restraining Franklin County, Ohio, et al. from continuing in its actions to deprive petitioners, and all others similarly situated, of their properties. The actions of

the respondents appear to have resulted in unlawful seizures in contrast to the Fourth Amendment of the U.S. Constitution. "[I]t is...well settled that where legal rights have been invaded, and a federal statute provides for a general right to sue for such invasion, federal courts may use any available remedy to make good the wrong done. Bell v. Hood, 327 U.S., at 684 (footnote omitted)." BIVENS v. SIX UNKNOWN FED. NARCOTICS AGENTS, 403 U.S. 388 (1971). "And it is established practice for [the U.S. Supreme] Court to sustain the jurisdiction of federal courts to issue injunctions to protect rights safeguarded by the Constitution and to restrain individual state officers from doing what the 14th Amendment forbids the state to do." BELL v. HOOD, 327 U.S. 678 (1946).

Respectfully submitted,

I, Lisa Barclay, and I, Ajamu M. Kafele, am signing my name with regard to the forgoing statements as being true, correct and not intentionally misleading, based on personal knowledge under the penalty of perjury, competent to testify.

Executed May 22, 2003

Lisa Barclay

Ajamu M. Kafele
947 E. Johnstown Rd., #142
Gahanna, Ohio 43230
614.520.4553

APPENDIX A

APPENDIX A

No. 03-3530

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
May 13 2003
Leonard Green, Clerk

In re: LISA BARCLAY; AJAMU M. KAFELE,

Petitioners

ORDER

Before:GUY, SUHRHEINRICH, and BATCHELDER, Circuit Judges.

The petitioners are the owners of properties which are the subject of foreclosure proceedings in the Common Pleas Court of Franklin County, Ohio. Some of these properties have been scheduled for sheriff s sales. Alleging they had been denied due process; in the state court proceedings, they filed a *pro se* action in the district court seeking injunctive relief enjoining such proceedings. In an order of March 27, 2003),the district court denied the requested injunctive relief on grounds that it had no power to sit in review of state court decisions and that abstention was required under the *Younger* doctrine.

The petitioners have now filed with this court an "Extreme Emergency Verified Petition for Writ of Mandamus" in which they ask this court to direct the district court to issue the requested injunction or, in the alternative, for this court to issue such an injunction. As in the district court, they argue that such relief is necessary because they have been denied due process by the state courts.[1]

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[1]This is not the petitioners' first effort to seek relief

The "remedy of mandamus is a drastic one, to be invoked only in extraordinary situations where the petitioner can show a clear and indisputable right to the relief sought." *In re American President Lines, Ltd.*, 929 F.2d 226,227 (6th Cir. 1991) (order). Mandamus is available only where other remedies cannot be used. *In re Ford*, 987 F.2d 334, 341 (6th Cir.), *cert. denied*. 506 U.S. 862 (1992). It cannot be used, for example, as a substitute for available appeals. *See Moses H. Cone Memorial Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 8 n.6 (1983); *In re Chimenti*, 79 F.3d 534, 538 (6th Cir. 1996); *City of Cleveland v. Krupansky*, 619 F.2d 572, 575 (6th Cir) (per curiam), *cert. denied*, 449 U.S. 834 (1980).

Because an order denying injunctive relief is immediately appealable under 28 U.S.C. § 1292(a)(1), the petitioners could have sought review of the district court's order by the simple step of filing a notice of appeal. Having foregone such review, mandamus is not an alternative means to obtain appellate review in this court.

Even if this court were to consider the merits of the mandamus petition, however, we would conclude the petitioner has not shown such a clear and indisputable right to injunctive relief as to warrant an issuance of this extraordinary writ. Federal courts should refrain from interfering with state court foreclosure proceedings. *Arnold v. Waterfield Mortgage Co.*, 966 F.Supp. 387, 389 (D. Md. 1996), *aff'd*, 116 F.3d 472 (4th Cir. 1997) (table) (claims of denial of due process in state court foreclosure proceedings should be heard in state courts, not federal court). We also cannot conclude, based upon the materials submitted to this court by the petitioners that the district court erred in

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from this court. Petitioner- Kafele filed an action in the district court seeking injunctive relief based upon alleged violations of -the Fair Debt Collection Practices Act. The district court denied injunctive

finding the doctrine of abstention applicable to this case. Moreover, it appears that the Anti-Injunction Act, 28 U.S.C. § 2283, precludes a federal court from staying state court foreclosure proceedings. *Phillips v. Chas. Schreiner Bank*, 894 F.2d 127, 131-32 (5th Cir. 1990).

It therefore is **ORDERED** that the petition for a writ of mandamus is denied.

ENTERED BY ORDER OF THE COURT
s/Leonard Green
Clerk

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relief and this court-. affirmed on direct appeal. *Kqfele v. Lerner Sampson & Rothfuss, L.P.A.*, No. 02-4199 (6th Cir. Apr. 1, 2003) (unpublished order). In an effort to gain an automatic stay of foreclosure proceedings, petitioner Barclay filed a Chapter 11 bankruptcy petition which was dismissed on motion of the United States Trustee. She filed a petition for a writ of mandamus in this court seeking an order vacating that dismissal. This court denied relief. *In re Barclay*, No. 03-3335 (6th Cir. March 27, 2003) (unpublished order).

APPENDIX B

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LISA BARCLAY **AJAMU M. KAFELE,** **Plaintiffs,**	**CASE NO. C2-03-184**
V.	**JUDGE** **EDMUND A. SARGUS, JR.**
FRANKLIN COUNTY, OHIO, et al., **Defendants.**	**MAGISTRATE JUDGE** **TERENCE P. KEMP**

ORDER

For the reasons that follow, the emergency relief requested by the Plaintiffs in this case is **DENIED.** (Doc. #5) The Plaintiffs seek relief against all judges of the Court of Common Pleas of Franklin County, Ohio, the Sheriff of Franklin County, the Clerk of Courts of Franklin County together with a judge of the state Court of Appeals. In essence, the Plaintiffs seek to enjoin state court proceedings involving foreclosure of mortgages on real estate which they allege they own. These cases are proceeding in the state courts of Ohio, which Plaintiffs seek to restrain by way of an "emergency verified motion for injunction."

The Defendants in the case have responded and assert that the: Plaintiffs have filed seventeen other lawsuits involving the same underlying foreclosure actions now pending in state court.[1] As Defendants correctly point out, this Court does not sit as a reviewing, appellate court regarding decisions of the state courts of Ohio.

---

[1]Plaintiff Ajamu M. Kafele was found by this Court to have improperly removed an action from the Franklin County Court of Common Pleas to federal District Court and dismissed the same by Order of December 6, 2002.

In *District of Columbia Court of Appeals v. Feldman,* 460 U.S. 462, 483-84 n. 6

(1983), the Supreme Court held:

> [L]ower federal courts possess no power whatever to sit in direct review of state court decisions. If the constitutional claims presented to a United States district court are inexplicably intertwined with the state court's denial [of a claim] in a judicial proceeding...then the district court is in essence being called on to review the state-court decision. This the district court may not do.

Even if the Plaintiffs raise federal issues not otherwise raised in the state court proceedings, this Court is without jurisdiction, since the same could have been raised in the state court proceedings. *Liedel v. Juvenile Court of Madison County,* 891 F.2d 1542, 1,545 (11th Cir. 1990).

Further, because the state court proceedings are ongoing, this Court must abstain from interfering with such cases. *Younger v. Harris,* 401 U.S. 37 (1971). Principles of federalism require that this Court abstain from interfering with a pending state court matter for which this Court otherwise lacks jurisdiction to review.

Based upon the foregoing, the emergency relief sought by the Plaintiffs herein is **DENIED**. Because of the multiplicity of lawsuits filed by the Plaintiffs herein involving the matters raised in the Complaint, the Court warns both Plaintiffs that sanctions will issue in the event the Court finds that any additional pleading is made in bad faith.

IT IS SO ORDERED.

3-27-2003
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE

APPENDIX C

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Lisa Barclay,
Ajamu M. Kafele
947 E. Johnstown Rd., #142
Gahanna, Ohio 43230

Plaintiffs

Case No. C2-03-184

Judge Sargus

Vs.

VERIFIED COMPLAINT FOR CIVIL DAMAGES; DECLARATORY RELIEF AND INJUNCTION

JURY TRIAL DEMANDED

FRANKLIN COUNTY, OHIO,

Offices/Agents/Officials of
FRANKLIN COUNTY, OHIO:
COMMON PLEAS COURT,
OFFICE of the CLERK OF COURTS
OFFICE of the SHERIFF

David W. Fais, Nodine Miller, John A. Connor, John P. Bessey, Lisa L. Sadler, David E. Cain, Michael H. Watson, Daniel T. Hogan, David L. Johnson, Patrick M. McGrath, Deborah O'Neill, Richard S. Sheward, Alan C. Travis, G. Gary Tyack
in their individual capacity and as Judge
for and/or with FRANKLIN COUNTY, OHIO

James "Jim" Karnes
in their individual capacity and as Sheriff
for and/or with FRANKLIN COUNTY, OHIO

John O'Grady
in his individual capacity and as Clerk of Courts
for and/or with FRANKLIN COUNTY, OHIO

Each of the above located/doing business at:
369-375 S. High Street
Columbus, Ohio 43215,

ALL UNKNOWN SURETIES OF ALL ABOVE PARTIES,

CNA
in its capacity as surety of and/for James Karnes,
John O'Grady
CNA Plaza
325 South Wabash Ave.
Chicago, Illinois 60685
Defendants

Introduction

1. This is a United States Of America Constitutional Rights, Civil Rights, Racketeering Influenced and Corrupt Organizations (herein after RICO), Obstruction of Justice, Fraud-Fraudulent Acts, Fraud on a Court of law, Fraudulent Representation of lawful authority, Theft of Office, Theft by Deception, Dereliction of Duty, Perjury (Breach) of Oath of Office, Defamation and Libel of name and character, Mail Fraud, Action on Official Bond, and violation of Ohio laws civil complaint brought by the Plaintiffs, victims of deprivation of property (real and monetary) and liberties without due process of law and/or equal protection of the law. Compensatory and punitive damages are sought against each of the defendants.

I. JURISDICTION AND VENUE

2. This Court has jurisdiction of this cause under 28 U.S.C. §§ 1331, 1332, 1339, 1343, 1357, 1366, 1367.

3. Venue is proper under 28 U.S.C. § 1391 in that majority of Defendants and Plaintiffs reside and/or conduct business, and the cause of action arises, in the Southern District

of Ohio, Eastern Division.

II. PARTIES

4. The Plaintiffs, Lisa Barclay and Ajamu M. Kafele (herein after Plaintiffs, or respectfully Barclay or Kafele) are adults domiciled in United States of America, Ohio and victims of deprivation of property without lawful authority and injured by violations of the other laws stated above.

5. The Defendants, except known Sureties, are State Officials/Agents/Offices, (herein after State Officials, respectfully Judges, Court, Clerk, Sheriff) for the Government of Franklin County, Ohio (herein after County) and are the liable parties who caused and/or participated in the deprivation and injury suffered by the Plaintiffs as herein stated in this complaint.

6. Defendant CNA as Surety, and All unknown Sureties, (herein after "Sureties"), appear to be licensed and/or authorized to conduct business in Ohio for all times material to this complaint and are individually liable for damages (as defined in each Surety Bond) resulting from the injuries suffered by the Plaintiffs at the "hands" of the State Officials and County.

7. Defendant G. Gary Tyack, Appellate Judge, appears to be equally liable because he was made aware and/or given notice of some of the violations of Constitutional and Civil Rights by the Judge Defendants but did not act to cease their actions and willfully declined to do so.

III. FACTS

8. The Plaintiffs were/are named as defendants in a multitude of Franklin County civil actions filed to deprive property (real and monetary) owned by and/or of interest of the Plaintiffs between December 2000 through current date.

9. The civil actions and real properties in relation are:

	Case	FILED	Judge	Property
1)	01 CV 000060	01/03/ 01	John A. Connor	1105-1107 E. 21st Ave., Columbus
2)	01 CV 002538	03/16/ 01	Alan C. Travis	110-112 S. Champion Ave., Columbus
3)	01 CV 006732	07/13/ 01	David L. Johnson	407 Denison Ave., Gahanna
4)	01 CV 009704	10/04/ 01	Daniel T. Hogan	1272-1274 N. 5th Street, Columbus
5)	01 CV 011241	11/13/ 01	Daniel T. Hogan	2874 E. Fifth Ave., Columbus
6)	00 CV 010208	12/08/ 00	Alan C. Travis	949 Carpenter St., Columbus
7)	00 CV 011148	12/19/ 00	Richard S. Sheward	1870 Roberts St., Columbus
8)	00 CV 011260	12/22/ 00	Deborah O'Neill	1466 Forest St., Columbus
9)	01 CV 000363	01/11/ 01	Michael H. Watson	2310 Jefferson Ave., Columbus
10)	01 CV 000554	01/18/ 01	Daniel T. Hogan	444-446 Clinton St., Columbus
11)	02 CV 008988	08/15/ 02	Nodine Miller	1141 Forest St., Columbus
12)	02 CV 009025	08/16/ 02	David W. Fais	117 EastCherry Ave, Gahanna
13)	02 CV 009273	08/22/ 02	Lisa L. Sadler	1992 Doren Ave., Columbus
14)	02 CV 010208	09/16/ 02	John A. Connor	287 S. Harris Ave., Columbus
15)	02 CV 010822	09/30/ 02	David E. Cain	2144 Middlehurst Dr., Columbus
16)	02 CV 011395	10/11/ 02	Patrick M. McGrath	265-267 Belvidere Ave., Columbus

Case	FILED	Judge	Property
17) 02 CV 009272	08/22/ 02	John P. Bessey	304 S. Champion Ave., Columbus

10. The Defendant Judges, except G. Gary Tyack, Court, and/or County, entered and/or caused to be entered judgment/orders/decrees to deprive, and/or deprived, the Plaintiffs of their properties (real and monetary) in absence of jurisdiction (all and/or subject matter), and/or in contradiction of the Supremacy clause and/or a controlling act(s) of Congress, and/or without affording the Plaintiffs due process of law and/or equal protection of the law.

11. The Defendants, Sheriff, Office of the Sheriff, Clerk of Courts, Office of the Clerk of Courts and County independently caused deprivation of and injury to Plaintiffs property, and/or participated in and/or aided the actions of (conspired with) the Defendants in ¶ 10 when they apparently intentionally, willfully and wantonly failed to exercise due process of law and/or equal protection of the law when they acted upon a Writ of Execution issued in accords with O.R.C. § 2329.09.1, not withstanding the validity authority of the Writ of Execution Order.

12. Plaintiffs in each of the Franklin County civil actions named above in ¶ 9, beginning in March of 2001, had a judgment/order/decree entered against them, and were subsequently and/or consequently deprived of their respective property, by the Defendants in ¶ 10, in the respective civil action in which they presided, without affording Barclay and Kafele their unalienable due process and/or equal protection right and/or privilege:

1) of a notice and opportunity to be heard in **open court** on the controversy at any stage (U.S. Constitution Art. VI, cl. 2, 5th Amend., 14th Amend.),

2) of an opportunity to cross examine competent fact witnesses and evidence against them (U.S. Constitution Art. VI, cl. 2, 5th Amend., 6th Amend., 14th Amend.),

3) to have the facts of the common law breach of contract matter over $20.00 resolved by a jury (U.S. Constitution Art. VI, cl. 2, 5th Amend., 7th Amend., 14th Amend.),

4) to an evidence hearing/jury trial to determine the damages suffered by the plaintiffs of the said civil actions(U.S. Constitution Art. VI, cl. 2, 5th Amend., 7th Amend., 14th Amend.),

5) to receive all notices/orders/entries by the Judge/Court entered against them (U.S. Constitution Art. VI, cl. 2, 5th Amend., 14th Amend.).

13. Plaintiffs in each of the Franklin County civil actions named above in ¶ 9, beginning in March of 2001, were and/or are being deprived of their properties and/or had a confirmation of sale judgment/order/decree entered against them by and/or in conjunction with the State Officials without affording Barclay and Kafele their unalienable due process and/or equal protection right and/or privilege of notice and opportunity to be heard in **open court** on a Writ of Execution. The State Officials did not comply with the due process and/or equal protection requirements of O.R.C. §§ 2329.09.1 & 2329.31, which demands that in acting upon a Writ of Execution the Clerk of Courts shall issue a notice and hearing form/letter to the levying officer (Sheriff), the Sheriff shall serve the notice and hearing form/letter by personal service (certified/regular mail if applicable) on the judgment debtor, that the Judge shall carefully examine the proceedings of the officer making the sale, to insure that the requirements of the Writ of Execution laws were complied with before confirmation of the sale is entered on the docket/case and a deed issued.

14. With respect to the properties at issue in the following Franklin county civil actions above at ¶9 numbers (2, 3, 11-17) The State Officials were served, and/or should have known, or could have discovered by means of public notice and/or filing in the respective case that there is a Lis Pendens on file regarding those properties and that no ac-

tion can or should have been or should be carried out to sale or cause the sale of those properties.

15. With respect to the properties of the following Franklin county civil actions stated above at ¶9 at numbers (11-17) the Judges/Court/County/Sheriff/Clerk appear to have ignored and acted in malfeasance, misfeasance and/or nonfeasance with respect to their duty and official position and with intentional, willful, wanton disregard of the Plaintiffs rights in spite of direct or indirect notices/letters served upon them evidencing

(a) lack of constitutional standing of any legally protected interest, and status as holder in due course, pursuant, but not limited, to UCC 3-302, of the plaintiffs of those civil actions to assert a claim against Barclay and/or Kafele,

(b) failure of attorney-debt collectors of/for Plaintiffs of those civil actions to have been/be in compliance, in whole or part, as mandated by Federal Law- the Fair Debt Collection Practices Act, thus as an operation of law ceasing any collection action by them and granting immunity to the plaintiffs from the collection action,

(c) that Barclay and/or Kafele had defenses pursuant to Uniform Commercial Code § 3-305- *Defenses and Claims in Recoupment* which the Plaintiffs action to collect on an instrument was/is "**subject to,**"

(d) that the Properties and any alleged debt owed is under U.S. Bankruptcy law protection and exempt from levy/seizure/sale,

(e) lack, and/or loss, of jurisdiction (all and/or subject matter) as an operation of law due to the Supremacy clause and/or controlling acts of congress and/or U.S. Supreme Court precedents.

16. The judgments/orders/decrees entered against the

Plaintiffs and subsequent "fall out" of those entries, i.e. public advertising and auctioning involving their names and properties, caused Barclay and Kafele to be unwanting victims of unreasonable seizures, willful and wanton damage to their property and person (defamation name and character), interference with contracts, to be forced into a position of involuntary servitude, and victims of violations of the above and below stated laws by the Defendants acting without lawful authority.

17. The judgments/orders/decrees entered against the Plaintiffs and actions to subsequently and/or consequently deprive Plaintiffs of their properties appear to have been discriminating acts carried out and aimed at Barclay and Kafele, by the Defendants, because Plaintiffs were persons, or a class of persons, not proceeding and communicating in the said County civil actions via attorneys at law, but as non-represented litigants.

18. Plaintiffs have suffered undue, intentional and willful infliction of harassment, mental anguish and stress, and humiliation at the "hands" of the Defendants apparent unlawful actions.

19. Plaintiff's injuries and resulting damage are a direct result of violations and breach of Oath of office and fraud perpetrated by the Defendants acting under color of law where they should have known or could have discovered, no jurisdiction or lawful authority existed for their actions, or a lack thereof. The actions by the Defendants were all based on void judgments that as an operation of law have no legal effect, even if never reversed or vacated.

20. Defendants actions/schemes were carried out to the detriment of Plaintiffs by use of the U.S. Mail and electronic communications in a fraudulent manner.

21. Defendants acts also have unjustly, intentionally and willfully resulted in a theft of Plaintiff's property consisting of time, thoughts, emotions and commercial energy.

22. The Defendants have repeatedly engaged in a pattern

and practice of forcibly depriving Plaintiffs of their unalienable rights, privileges, immunities, properties (real and monetary) and liberties in contrast to the Supreme laws of the land and state laws under the fraudulent pretense of lawful authority in violation of predicate acts named above and below.

23. Plaintiffs served a Notice of Misprision of Felony and/or notice of criminal activity, and a follow up notice, upon Appellate Judge G. Gary Tyack about the apparent unlawful, non-authority actions of the other Defendants in ¶ 10 and requested intervention, however he ignored the law regarding those notices and asserted that, in contrast to law, he had no responsibility with regard to the matter. Thus appears to have sanctioned and/or acted in concert with the other Defendants to deprive property and liberties of, and cause injury to the Plaintiffs.

24. All Defendants, independently and/or collectively, have trespassed on the unalienable Constitutional and statutory rights, privileges, and/or immunities of and caused severe injury to the Plaintiffs.

IV. Causes of Action

25. The Defendants actions as set out in the facts and the County court records of the cases in ¶ 9 creates and gives rise to a cause(s) of action pursuant to:

1) The Constitution of the United States of America - Article IV, section 2, clause 1- *Citizens entitlement of all privileges and immunities*, Article VI, clause 2- *Supremacy clause and/or controlling act of congress clause*, Fourth, Fifth, Sixth, Seventh, Thirteenth, and Fourteenth Amendments;
2) The Civil Rights laws codified at: 18 U.S.C. § 241-242, 42 U.S.C. §§ 1983, 1985 & 1986;
3) Racketeering-18 U.S.C. § 1952;
4) Racketeering Influenced and Corrupt Organizations- 18 U.S.C. § 1964;

5) Obstruction of Justice-18 U.S.C. § 1505,
6) Mail Fraud-18 U.S.C. § 1341;
7) Defamation and libel of name and character;
8) Fraud: Fraudulent Acts, Fraud on a Court of law, Fraudulent Representation of lawful authority;
9) Ohio Revised Code (O.R.C.) § 2911.12-Burglary;
10) O.R.C. § 2911.13-Breaking and entering;
11) O.R.C. § 2911.21-Criminal trespass;
12) O.R.C. § 2913.02-Theft;
13) O.R.C. § 2921.03-Intimidation;
14) O.R.C. § 2921.13-Falsification;
15) O.R.C. § 2921.22-Failure to report a crime;
16) O.R.C. § 2921.32-Obstructing justice;
17) O.R.C. § 2921.41-Theft in office;
18) O.R.C. § 2921.44(E)-Dereliction of duty;
19) O.R.C. § 2921.45-Interfering with civil rights;
20) O.R.C. § 2921.52-Using sham legal process;
21) O.R.C. § 2305.12-On official bond
22) O.R.C. § 2307.60-Civil Action for criminal acts;
23) O.R.C. § 2307.61-Property owner recovery for willful damage and theft;
24) O.R.C. § 2307.06-Suit on Bond;
25) O.R.C. § 2333.23-Liability of Sheriff on official bond;
26) O.R.C. §§ 3.22, 3.23-Oath (Perjury (Breach) of Oath's to uphold the laws, rules, regulations, Constitutions of the United States of America and the State of Ohio).

26. The Defendants appear to be subject to personal liability as an operation of law for the injuries suffered by the Plaintiffs because they proceeded in and/or in connection with, the County civil actions void of any jurisdiction and/or lawful authority. Any jurisdiction and/or authority that may have existed was completely lost when the judges/

court/county proceeded to deprive Plaintiffs in this action of their property and liberties in a manner that is inconsistent with Plaintiffs unalienable due process and/or equal protection rights, privileges, immunities as "outlined" in the U.S. Constitution, Federal laws, U.S. Supreme Court Decisions. The actions by the Defendants were not Judicial but *Coram non judice.*

V. Claims For Relief

27. Plaintiffs demand, not limited to, monetary compensatory and punitive monetary damages, fines, and sanctions according to law from each defendant independently for deprivation of properties, liberties and/or injuries suffered, in an amount to be determined.

28. Plaintiffs demand that all void judgments/orders/decrees in the County court be vacated, and dismissed with prejudice.

29. Plaintiffs seek the recovery of all cost and "attorney" fees and/or equivalent fees as non-represented litigants, and award of all other proper relief due, whether specifically requested or not, but appropriately due to the Plaintiffs in the name of justice.

CLAIMS FOR DECLARATORY AND/OR INJUNCTIVE RELIEF

30. Plaintiffs have the following civil cases pending before the County:

	Case	FILED	Judge	Property
1)	02 CV 009677	09/03/ 02	Dale A. Crawford	1164 E. 21st Ave., Columbus
2)	02 CV 010820	09/30/ 02	John A. Connor	1541 Myrtle Ave., Columbus
3)	02 CV 011260	10/09/ 02	Nodine Miller	215 Hermitage, Gahanna

	Case	FILED	Judge	Property
4)	02 CV 011327	10/10/ 02	John P. Bessey	959-961 E. Long St., Columbus
5)	02 CV 011647	10/18/ 02	Daniel T. Hogan	981 S. Ohio Ave, Columbus
6)	02 CV 012106	10/31/ 02	Daniel T. Hogan	899 S. Ohio Ave., Columbus
7)	02 CV 012913	11/19/ 02	Dale A. Crawford	1253 E. Long St., Columbus
8)	02 CV 012970	11/20/ 02	John A. Connor	87 Belvidere Ave., Columbus
9)	02 CV 013547	12/04/ 02	David E. Cain	1449 E. Long St., Columbus
10)	02 CV 013879	12/12/ 02	David L. Johnson	146 Lechner Ave., Columbus
11)	02 CV 001163	01/30/ 03	David L. Johnson	157-159 North 20th St., Columbus

giving the above verified facts and County court records involving the Plaintiffs, Barclay and Kafele have "probable cause" and/or reason to believe that the County and its officials will continue to engage in the violations of law as stated above in the cases stated in this paragraph (which involves many of the same Judges named in this complaint), due to the pattern and practice of the County and it officials, particularly towards non-represented litigants.

31. The Judges/Court/County stated in ¶ 30 appear to be presiding over an action in which they are void of jurisdiction (all and/or subject matter) and have no lawful authority to carry out any actions, as was stated above in the FACTS. They appear to be on the same path and/or plan as in the cases named in ¶ 9 to cause severe harm and injury to the Plaintiffs.

32. Plaintiffs request a Declaratory Judgement pursuant to 28 U.S.C. 2201-*Creation of Remedy* (Declaratory Judgment

Act) as to the rights, privileges, immunities of the Plaintiffs in the cases named in ¶ 30 that must be upheld and maintained as a matter of law, and/or Injunctive Relief to prevent further harm and injury to Barclay and/or Kafele, which appears eminent, by an apparent long term pattern and practice of reckless disregard for the law by Franklin County, Common Pleas Court and its Judges in those types of Civil Actions.

Respectfully submitted,

s/Lisa Barclay
Lisa Barclay

s/Ajamu M. Kafele
Ajamu M. Kafele
Plaintiffs
947 E. Johnstown Rd., #142
Gahanna, Ohio 43230
614.520.4553

APPENDIX D

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Lisa Barclay
Ajamu M. Kafele
Plaintiff

Case No. C2-03-184
Judge Sargus

Vs.

FRANKLIN COUNTY, OHIO, ET AL.
Defendants

Lisa Barclay's
AFFIDAVIT IN SUPPORT OF COMPLAINT

The undersigned affiant, being duly sworn on oath or asseveration, by personal knowledge, depose and says:

1. That I, Lisa Barclay, am giving a sworn verification as to my personal knowledge of the matters of said complaint filed in Federal Court simultaneously with this affidavit, by the statements in this affidavit;

2. That the facts as stated in the complaint are true, correct and not misleading.

3. That I was not notified and/or given an opportunity to be heard in open court, to cross-examine adverse competent fact witnesses and evidence against me, to have the facts resolved by a jury, to have an evidence hearing/jury as to the damages, in the Franklin County cases named in the complaint that have deprived me of my property and/or caused me injury.

4. That I did not receive, nor does the record indicate that, all, and in many situations any of, the judgments/orders/

decrees or the like entered in the record were sent to me, so that I could have notice of the Judge's/Court's decisions.

5. That the laws, rules, regulations, customs, norms, or the like for adjudication of Franklin County, Ohio's breach of contract and/or real property foreclosure procedures appear to be Unconstitutional and in contrast to Federal laws, and that I have been victimized by those laws, rules, regulations, customs, norms, or the like as stated in the complaint.

6. That the Defendants actions to deprive and injury me, and to deny my constitutional and federal rights, privileges, and/or immunities, as stated in the complaint, appear to have been the result of discriminating actions towards me because I was not proceeding/communicating in the Franklin County, Ohio case with, or represented by, an Attorney at Law, but as a non-represented litigant.

7. That the Defendants appear to have perpetrated a fraud, including a fraud upon a court of law, and conspired against me for the purpose of intentionally, willfully and wantonly depriving me of my property and causing me injury as stated in the complaint.

I am signing my name under penalty of perjury and under oath or asseveration, competent to testify administered by the Notary Public named below, and I am accepting full liability, both civil and criminal, and that I accept all penalties of perjury, and any other violations of law, if and when it is found that my statements in this "**Affidavit**" document are intentionally false in any way.

s/Lisa Barclay — 2/27/03
Lisa Barclay — Date

STATE OF Ohio)
) ss.
COUNTY OF Franklin)

On the 27 th day of February, 2003 A.D., before me, Lisa Barclay, (personally known to me, or) proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his personal capacity and that by his signature on the instrument, Lisa Barclay, signed under oath or asseveration, and accepts the truth thereof.

s/John Paulson
Notary Public
John Paulson
Notary Public, State of Ohio
My commission expires 11-28-05

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Lisa Barclay
Ajamu M. Kafele
Plaintiff

Case No. C2-03-184
Judge Sargus

Vs.

FRANKLIN COUNTY, OHIO, ET AL.
Defendants

Ajamu M. Kafele's
AFFIDAVIT IN SUPPORT OF COMPLAINT

The undersigned affiant, being duly sworn on oath or asseveration, by personal knowledge, depose and says:

1. That I, Ajamu M. Kafele, am giving a sworn verification as to my personal knowledge of the matters of said complaint filed in Federal Court simultaneously with this affidavit, by the statements in this affidavit;

2. That the facts as stated in the complaint are true, correct and not misleading.

3. That I was not notified and/or given an opportunity to be heard in open court, to cross-examine adverse competent fact witnesses and evidence against me, to have the facts resolved by a jury, to have an evidence hearing/jury as to the damages, in the Franklin County cases named in the complaint that have deprived me of my property and/or caused me injury.

4. That I did not receive, nor does the record indicate that, all, and in many situations any of, the judgments/orders/

decrees or the like entered in the record were sent to me, so that I could have notice of the Judge's/Court's decisions.

5. That the laws, rules, regulations, customs, norms, or the like for adjudication of Franklin County, Ohio's breach of contract and/or real property foreclosure procedures appear to be Unconstitutional and in contrast to Federal laws, and that I have been victimized by those laws, rules, regulations, customs, norms, or the like as stated in the complaint.

6. That the Defendants actions to deprive and injury me, and to deny my constitutional and federal rights, privileges, and/or immunities, as stated in the complaint, appear to have been the result of discriminating actions towards me because I was not proceeding/communicating in the Franklin County, Ohio case with, or represented by, an Attorney at Law, but as a non-represented litigant.

7. That the Defendants appear to have perpetrated a fraud, including a fraud upon a court of law, and conspired against me for the purpose of intentionally, willfully and wantonly depriving me of my property and causing me injury as stated in the complaint.

I am signing my name under penalty of perjury and under oath or asseveration, competent to testify administered by the Notary Public named below, and I am accepting full liability, both civil and criminal, and that I accept all penalties of perjury, and any other violations of law, if and when it is found that my statements in this "**Affidavit**" document are intentionally false in any way.

s/Ajamu M. Kafele — 2/27/03
Ajamu M. Kafele — Date

STATE OF Ohio)
) ss.
COUNTY OF Franklin)

On the 27 th day of February, 2003 A.D., before me, Ajamu M. Kafele, (personally known to me, or) proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his personal capacity and that by his signature on the instrument, Ajamu M. Kafele, signed under oath or asseveration, and accepts the truth thereof.

s/John Paulson
Notary Public
John Paulson
Notary Public, State of Ohio
My commission expires 11-28-05

APPENDIX E

APPENDIX E

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Lisa Barclay,
Ajamu M. Kafele
Plaintiffs

-

Case No. 03-CV-184
Judge Sargus

Vs.

FRANKLIN COUNTY, OHIO, et al.
Defendant(s)

EMERGENCY VERIFIED
MOTION FOR INJUNCTION
EMERGENCY HEARING REQUESTED

1. Now comes Lisa Barclay, Ajamu M. Kafele, herein after Plaintiffs, Barclay or Kafele, pursuant, but not limited, to Fed. R. Civ. P. 65, and U.S. Constitution, Art. VI, Cls. 2 (Supremacy/Controlling Act of Congress clause), for an Emergency Injunction and/or Restraining Order and/or Protective Order (Emergency Hearing Requested, if needed), **to be maintained until the termination of litigation of this civil action**, preventing any method, manner, or form of action, expressed or implied, in which the natural consequences of such action would cause Plaintiffs to be deprived of their properties. Such actions include, but are not limited to, issuance of a judgment/decree in foreclosure, Order/Writ to Sale property by foreclosure, public/private auction of subject properties, the construction of, signing of a deed for conveyance of subject property, the confirmation of a foreclosure sale, an Order/Writ of possession to levy/lien/seize subject properties and/or remove any tenants and/or impair any contracts as a re-

sult of a foreclosure action.

2. The Court/Judge Sargus is respectfully requested to act timely (before March 28, 2003) to this emergency motion. "Public officials, whether governors, mayors or police, legislators or judges, who fail to make decisions when they are needed or who do not act to implement decisions when they are made do not fully and faithfully perform the duties of their offices." SCHEUER v. RHODES, 416 U.S. 232.

3. Plaintiffs are in imminent danger of irreparable loss and injury (deprivation) to their properties, rental contracts of the properties, and rights of ownership, possession, and use of the subject properties of this case, by virtue of actions by "state" officials (Defendants, except Sureties) acting under color of law in absence of all jurisdiction and/or without affording Barclay and Kafele well-established rights of due process and/or equal protection of the law, which is clearly presented in the Plaintiff's affidavit in support of, and/or the verified, complaint.

4. Additionally, Plaintiffs are likely to **further** suffer irreparable harm and injury by the Defendants before they can be fully heard and afforded their right to present their evidence/proof and/or case of deprivation of property without jurisdictional authority and/or due process and/or equal protection of the law. Evidence/Proof of an extreme likelihood of further irreparable harm and injury is apparent in that on the official records of Franklin County, Ohio they show that the following, currently known to Plaintiffs, properties are scheduled for a Franklin County Sheriff's foreclosure real estate sale, or a sale took place:

1. March 14, 2003, on or about 10:00 am, 287 S. Harris Ave., Cols., Ohio, case 02 CV 10208;
2. March 28, 2003, on or about 10:00 am, 1141 Forest St., Cols., Ohio, case 02 CV 08988;
3. April 4, 2003, on or about 10:00 am, 2144 Middlehurst Dr., Cols., Ohio, case 02 CV 10822;
4. April 11, 2003, on or about 10:00 am, 265-267

Belvidere Ave., Cols., Ohio, case 02 CV 11395;

5. April 11, 2003, on or about 10:00 am, 304 S. Champion Ave., Cols., Ohio, case 02 CV 09272.

Also, by *necessary inference* of the facts in this complaint, and the facts of the County's courthouse records which show that a judgment(s) and/or Writ(s)/Order(s) for sale, or other, apparent *Coram non judice* decision(s)/order(s), were issued to sale other properties, not listed above but are a subject of this case and owned by the Plaintiffs, appears to represent prima facie evidence/proof of an extreme likelihood of further irreparable harm and injury to Barclay and Kafele.

5. The "state" officials continue to act to the detriment of Barclay and Kafele, by all appearances, without jurisdiction, and/or due process/equal protection of the law, regardless of any notices/letters served upon them to halt their actions (see most recent noticed attached as exhibit-1), and with reckless and wantoning disregard for the rights, privileges, and immunities of the Plaintiffs. Even with service of this complaint, service of Lis Pendens notices, service of a notice of "Non-wavier of Unalienable Rights," notice of (apparent) felony, and the most recent notice (exhibit-1) Defendants, in particular James Karnes, Franklin County Sheriff, and Franklin County's Office of the Sheriff, still have proceeded to, by all appearances, without lawful authority to do so, to deprive Barclay and Kafele of their properties. The most recent action taking place on March 14, 2003, as noted above.

6. Well-establish law does not permit the taking of a persons possession without a notice and opportunity to be heard in open court, not withstanding the other facts and laws stated in the complaint. "The requirement of notice and an opportunity to be heard [in open court] raises no impenetrable barrier to the taking of a person's possessions. But the fair process of decisionmaking that it guarantees works, by itself, to protect against arbitrary deprivation of property. For when a person has an opportunity to

speak up in his own defense, and when the State must listen to what he has to say, substantively unfair and simply mistaken deprivations of property interests can be prevented. ARMSTRONG v. MANZO, 380 U.S. 545 (1965). "The right to prior notice and a hearing is central to the Constitution's command of due process. "The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment - to minimize substantively unfair or mistaken deprivations of property. . . ." Fuentes v. Shevin, 407 U.S., at 80 -81..." UNITED STATES v. JAMES DANIEL GOOD REAL PROPERTY, 510 U.S. 43; 114 S. Ct. 492 (1993). "True it is that in Kees v. Watertown, 19 Wall. 107, 123, 22 L. ed. 72, 77, it was said: 'Whether in fact the individual has a defense to the debt, or by way of exemption, or is without defense, is not important. To assume that he has none, and therefore that he is entitled to no day in court, is to assume against him the very point he may wish to contest.'" LOUISVILLE & N R CO v. SCHMIDT, 177 U.S. 230 (1900). "'It is a rule as old as the law, and never more to be respected than now, that no one shall be personally bound until he has had his day in court; by which is meant until he has been duly cited to appear, and has been afforded an opportunity to be heard. Judgment without such citation and opportunity wants all the attributes of a judicial determination; it is judicial usurpation and oppression, and never can be upheld where justice is justly administered.'" OLD WAYNE MUT. LIFE ASS'N v. MCDONOUGH, 204 U.S. 8 (1907). "For more than a century the central meaning of procedural due process has been clear: "Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified." Baldwin v. Hale, 1 Wall. 223, 233. See Windsor v. McVeigh, 93 U.S. 274 ; Hovey v. Elliott, 167 U.S. 409 ; Grannis v. Ordean, 234 U.S. 385 ....If it were shown at a hearing that the appellants had defaulted on their contractual obligations, it might well be that the sellers of the

goods would be entitled to repossession. But even assuming that the appellants had fallen behind in their installment payments, and that they had no other valid defenses, 17 that is immaterial here. The right to be heard does not depend upon an advance showing that one will surely prevail at the hearing. "To one who protests against the taking of his property without due process of law, it is no answer to say that in his particular case due process of law would have led to the same result because he had no adequate defense upon the merits." Coe v. Armour Fertilizer Works, 237 U.S. 413, 424 . It is enough to invoke the procedural safeguards of the Fourteenth Amendment that a significant property interest is at stake, whatever the ultimate outcome of a hearing on the contractual right to continued possession and use of the goods." FUENTES v. SHEVIN, 407 U.S. 67, 92 S. Ct. 1983, 32 L. Ed. 2d 556 (1972).

7. Furthermore, where a Lis Pendens lies the sale of a property shall not occur. "Sale of the property can be prevented by filing a notice of lis pendens as authorized by state law..." UNITED STATES v. JAMES DANIEL GOOD REAL PROPERTY, 510 U.S. 43; 114 S. Ct. 492 (1993). There are currently several Lis Pendens, beside this current one, that require as an operation of Supreme Law (Supremacy Clause) that the sale, or in act to cause or in furtherance of the sale of subject properties of this case, and those Lis Pendens, which also includes the subject properties of this case, is not to occur. Where such actions do occur to sale the property, those actions appear to be inconsistent with due process/equal protection of the law.

Wherefore, Plaintiff requests that the Court grant said motion for injunction, restraining, protective order, as well as any appropriate and necessary sanctions in accordance with the above stated violations of the law by the defendants, to prevent and discontinue any further unjust injury and harm towards the Plaintiffs at the "hands" of the Defendants. "it is established practice [by the U.S. Supreme Court] to sustain the jurisdiction of federal courts to issue

injunctions to protect rights safeguarded by the Constitution and to restrain individual state officers from doing what the 14th Amendment forbids the state to do." BELL v. HOOD, 327 U.S. 678 (1946). "The guarantees of the Bill of Rights are the protecting bulwarks against the reach of arbitrary power." GLASSER v. U.S., 315 U.S. 60 (1942).

Respectfully submitted,

I, Lisa Barclay, and I, Ajamu M. Kafele, declare under the penalty of perjury that the foregoing is true, correct, and not misleading. And that I am competent to testify to the foregoing matters. Executed on March 16, 2003.

s/Lisa Barclay
Lisa Barclay

s/Ajamu M. Kafele
Ajamu M. Kafele
Plaintiffs
947 E. Johnstown Rd., #142
Gahanna, Ohio 43230
614.520.4553

APPENDIX F

APPENDIX F

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

In re: Lisa Barclay,
Ajamu M. Kafele

Apps. Case No. 03-3530

Petitioners

Dist. Case No. C2-03-0184

EXTREME EMERGENCY VERIFIED PETITION FOR WRIT OF MANDAMUS, ACTION REQUESTED WITHIN THREE (3) DAYS DUE TO THE EXTREME EMERGENCY THAT EXIST

(1) THE RELIEF SOUGHT

Lisa Barclay and Ajamu M. Kafele (herein after Petitioners or Barclay or Kafele) hereby petition this court by means of an extreme emergency verified petition for writ of mandamus to the 6th Circuit District Court of the Southern District of Ohio, Eastern Division-Columbus to issue an injunction due, not limited, to the prima facie evidence establishing deprivation of petitioners' properties without due process of law pursuant, but not limited, to the U.S. Constitution-Art. VI, cls. 2, and the 4th, 5th, 14th, and *Stare Decisis*, in which such action is continuously causing irreparable harm and injury to Barclay and Kafele. Defendants, Franklin County, Ohio, et al. of the Dist. Case C2-03-0184 are herein after reference as Respondents.

In the alternative, Petitioners would request that a preliminary injunction be issued pending a hearing for issuance of an injunction and any necessary appellate review; or the issuance of an injunction or preliminary injunction from this court.

Additionally, Barclay and Kafele request the issuance of a preliminary injunction from this Court pending

a review of this Mandamus Petition if three (3) days is inadequate time for this Court to address the merits of this matter. Timely action is requested of this Court. Petitioners are not attempting to tell this Court what to do or how to do anything, but only specifically aiming to make it clear that immediate action is needed, to enact the clear duty that the Federal Court, specifically the District Court, has.

> "Public officials, whether governors, mayors or police, legislators or judges, who fail to make decisions when they are needed or who do not act to implement decisions when they are made do not fully and faithfully perform the duties of their offices. SCHEUER v. RHODES, 416 U.S. 232 (1974).

(2) THE ISSUES PRESENTED

Lisa Barclay and Ajamu M. Kafele are being **DENIED DUE PROCESS AND EQUAL PROTECTION PURSUANT TO THE LAW** by the lower court, not withstanding that by the Respondents, for the apparent express purpose of allowing Petitioners to be continuously irreparably, unjustifiably injured by wanton and reckless disregard of fundamental and rudimentary requirements of law by the Respondents in their unlawful actions that are resulting in deprivation (theft) of Petitioners properties.

It is well-settled law and judicial precedent, that should need no citation or introduction, as it should be common knowledge in the legal arena, that no judgment of a court is deemed valid and protected by any "full, faith, and credit" concept in law, without providing litigants of a case notice and opportunity to be heard in open court before allowing the deprivation of life liberty and/or property from them; as such is a fundamental and rudimentary requirement of due process of law. That no person shall be deprived of life, liberty, or property by the government or its agents without said due process of

law. That it is the expressed authority (jurisdiction) of the Federal Courts to protect by any necessary available means the people of this land Constitutional and Federal statutory rights, privileges, and immunities when trespassed upon by the any government entity Federal, State, County, Municipal, City, Township, etc. Such means of protection includes the issuance of injunctions to restrain clear and undeniable unconstitutional acts by entities such as Respondents.

The issue presented here is for the issuance of an injunction to halt unconstitutional activity by Franklin County, Ohio and its agents/successors/assigns that is causing irreparable injury and harm to Barclay and Kafele. It is well establish that were Constitutional rights have been violated the Courts may use any available remedy to right a wrong. See BIVENS v. SIX UNKNOWN FED. NARCOTICS AGENTS, 403 U.S. 388 (1971). The Supreme Court has recognized that all though full relief may not be available to a party, where some relief is then the issue is not moot before the Court. "While a court may not be able to return the parties to the status quo ante...a court can fashion some form of meaningful relief..." CHURCH OF SCIENTOLOGY OF CAL. v. UNITED STATES, 506 U.S. 9 (1992).

(3) THE FACTS NECESSARY TO UNDERST THE ISSUES PRESENTED IN THIS PETITION

The Petitioners have filed a pending verified complaint in District Court, Southern District of Ohio, Eastern Division, case C2-03-0184, against the Respondents for the deprivation of their properties (real and monetary) without due process of law. Petitioners have asserted in their verified complaint that they have been deprived and/or are being deprived of their properties void of jurisdiction of the County and its agents to do so, without a notice and opportunity to be heard in open court, a trial of the facts, opportunity to cross examine adverse witnesses/evidence

against them, and, not limited to, in defiance of sovereign lis pendens (common) law, and U.S. Supreme Court governing law (Supremacy Clause). Respondents efforts to deprive properties from Petitioners without lawful authority continues relentlessly to this day, and appears to be being intentionally aided by the lower federal Courts in its failure to follow the law, Supreme Court and other court precedents. The Federal Courts have the jurisiction and lawful duty to Order the relief request-an injunction by Petitioners.

Petitioners believe they have provide sufficient verified claims for an injunction, in case 02-03-0184 (See Injunction Request of Appendix A, Affidavits of Complaint Appendix B), to cease Respondents from continuing their unlawfully acts in violation of fundamental law, or at least until it could be establish in said case to be otherwise. "Indeed, no more than [Affidavit] is necessary to make the prima facie case." UNITED STATES v. KIS, 658 F.2d 526 (7th Cir. 1981); certiorari denied, 50 U.S.L.W. 2169; S.Ct. March 22, 1982. Also, see BERGER v. U S, 255 U.S. 22 (1921) (finding an affidavit sufficient to invoke the operation of an act by a Judge), and NEAL v. STATE OF DELAWARE, 103 U.S. 370 (1880) (finding an affidavit prima facie evidence of a denial of Constitutional Rights). However the lower court has denied the relief requested (See Appendix C), without a hearing (opportunity to be heard in open court) on the pretext of no jurisdiction, based on the Respondents unverified statements, but any Federal Judge should know that if the jurisdiction exist for the Federal Court to do anything it is to see to it that the Constitution of the United States is upheld and the peoples' rights in relation are not violated and trespassed upon, particularly by government agents. "The Fourteenth Amendment provides that "[n]o State shall . . . deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1. To allege a violation of their substantive due process rights, the residents must assert either the "denial of a right, privilege, or immunity se-

cured by the Constitution or by federal statute" or an official act which "'shocks the conscience' of the court." *Mertik v. Blalock*, 983 F.2d 1353, 1367-68 (6th Cir. 1993)." BOWERS, ET AL v. FLINT, (2003).

Although Petitioners have publicly file and personally served to Respondents Lis Pendens' on many of the properties that are the subject of case 02-03-0184, and according to law may in a worst case scenario reclaim title, this apparent unlawful seizure action of the Respondents, in violation of not limited to U.S. Constitution-4th Amendment, has caused and continues to cause severe irreparable injury and harm to the Petitioners, which includes interference with rental contracts, and all other use that Petitioners have to their private property. "The seizure deprived [owner] of valuable rights of ownership, including the right of sale, the right of occupancy, the right to unrestricted use and enjoyment, and the right to receive rents. All that the seizure left him, by the Government's own submission, was the right to bring a claim for the return of title at some unscheduled future hearing." UNITED STATES v. JAMES DANIEL GOOD REAL PROPERTY, 510 U.S. 43; 114 S. Ct. 492 (1993). Where Respondents actions are allowed to continue, and proceed as planned, the injury and harm to Petitioners intensifies unjustly, with prejudice only against Petitioners.

Moreover, this pending case puts the subject properties under its own protection pursuant to *Lis Pendens law* and should not be sold or the status quo changed until litigation has been terminated and Petitioners have not timely sought review by the High Court. The *Lis Pendens* law alone appears to support the issuance of an injunction. This was so eloquently set out in this Courts Opinion in TREINISH v. NORWEST BANK MINNESOTA, 2001, which noted, "Lis pendens is founded on public policy and "'the necessity of such rule to give effect to the proceeding of a court of justice. Without it, every judgment and decree for specific property might be rendered abortive by succes-

sive alienations.'" *Meck v. Clabaugh*, 16 Ohio App. 367, 1922 WL 1722, at *1 (Ohio Ct. App. 1922) (citation omitted); *see also In re Borison*, 226 B.R. at 790. The doctrine has enjoyed long vitality in Ohio. *See Cook v. Mozer*, 140 N.E. 590, 592 (Ohio 1923) (reviewing principles of lis pendens doctrine)." Also, acknowledging the authority of *Lis Pendens* in Aronson v. Akron, (1997), in quoting United States v. 408 Peyton Rd., S.W., 112 F.3d-1106, 1110 n.5 (11th Cir. 1997) (Good specifically endorsed [a lis pendens] as a valid means of safeguarding the Government s legitimate interests). The Supreme Court has made it clear and established governing law that "Sale of the property can be prevented by filing a notice of lis pendens as authorized by state law..." UNITED STATES v. JAMES DANIEL GOOD REAL PROPERTY, 510 U.S. 43; 114 S. Ct. 492 (1993). Such notice has been filed, See Appendix D, not withstanding the obvious of the District Court case naming Respondents as a parties.

Petitioners have already caused the following unlawful deprivation acts and/or have the following scheduled, pursuant to the noted Franklin County, Ohio court case, with others possibly in progress, but unknown to Petitioners (Petitioners have never received personal service of any notice of the public auction sale of their properties from the Respondents, not withstanding other Constitutional requirements, and such is an observed pattern and practice where Petitioners would not expect to receive personal notice even though they have a mailing address for Petitioners):

- March 14, 2003, on or about 10:00 am, 287 S. Harris Ave., Cols., Ohio, case 02 CV 10208;
- March 28, 2003, on or about 10:00 am, 1141 Forest St., Cols., Ohio, case 02 CV 08988;
- April 4, 2003, on or about 10:00 am, 2144 Middlehurst Dr., Cols., Ohio, case 02 CV 10822;
- April 11, 2003, on or about 10:00 am, 265-267

Belvidere Ave., Cols., Ohio, case 02 CV 11395;

- April 11, 2003, on or about 10:00 am, 304 S. Champion Ave., Cols., Ohio, case 02 CV 09272;
- May 9, 2003, on or about 10:00 am, 117 Eastcherry Ave, Gah., Ohio, case 02 CV 9025.

Petitioners have/had approximately 30 properties, with 12 or more and counting, having been unlawfully deprived from them within the past 1-2 years. The Respondents have by necessary inference, established a pattern and practice of forceful deprivation of property without due process of law with regard to Petitioners. Furthermore, such action appears to be a custom and/or norm, and/or standard policy or procedure, albeit in strict disregard of Fundamental Law, for Respondents in carrying out civil foreclosure actions in general. Such can be fully documented and validated by the Court records of Franklin County Common Pleas Court.

4) THE REASONS WHY THE WRIT SHOULD ISSUE

Petitioners have a well-established clear Constitutional and legal right to NOT have their properties deprived, stolen, from them under color law by the Respondents, and the Federal Court have a clear duty to protect those rights by issuance of an injunction. This is absolutely nothing new to this Court or the lower Court. The actions of the Respondents is without excuse and nothing but arbitrary and capricious actions under color of lawful authority. Barclay and Kafele have valid claims that are sustainable under the jurisdiction of the Federal Court and should not be subject to further irreparable loss before they can provide the evidence to support their claim for the relief requested and justice properly due to them. Without notice and opportunity to be heard in open court, and lawful jurisdiction to act before depriving or attempting to deprive petitioners of their properties, it is unfounded in law that a full and fair opportunity to could be had to even re-

motely resolve the issues surrounding the eprivation of Barclay and Kafeles' properties by the County Courts.

> "It is to be borne in mind that it has been settled (Griffith v. Connecticut, 218 U.S. 563 , 54 L. ed. 1151, 31 Sup. Ct. Rep. 132, and cases cited) that the 14th Amendment does not operate to deprive the states of their lawful power, and of the right, in the exercise of such power, to resort to reasonable methods inherently belonging to the power exerted. On the contrary, the provisions of the due process clause only restrain those arbitrary and unreasonable exertions of power which are not really within lawful state power, since they are so unreasonable and unjust as to impair or destroy fundamental rights.
>
> The error which all the propositions involve was pointed out in Twining v. New Jersey, 211 U.S. 78 , 53 L. ed. 97, 29 Sup. Ct. Rep. 14, where, speaking by Mr. Justice Moody, the court said:
>
> > **'Due process requires that the court which assumes to determine the rights of parties shall have jurisdiction [citing cases], and that there shall be notice and opportunity for hearing given the parties [citing cases].** Subject to these two fundamental conditions, which seem to be universally prescribed in all systems of law established by civilized countries, this court has, up to this time, sustained all state laws, statutory or judicially declared, regulating procedure, evidence, and methods of trials, and held them to be consistent

with due process of law.'"
AMERICAN LAND CO. v. ZEISS, 219 U.S. 47 (1911) (emphasis added).

This presiding Judge(s) of this action are respectfully requested to abide by the law and not a "side step," or evade any law, or act without impartiality, or with bias, or prejudice regarding the issue(s) in this Writ because Petitioners are pursuing this case as non-represented litigants. Certainly an attorney is not needed to have the Federal Court carryout the necessary actions to halt that which is rudimentary to the rights of the people of this land, in which Barclay and Kafele reside and are due its protections. The lower court is, so it appears, effectively aiding the violation of fundamental law by the Respondents, and this Court is requested to immediately correct that prohibition.

"The United States is forbidden by the fundamental law to take either life, liberty, or property without due process of law, and **its courts are included in this prohibition.**" Bass v. Hoagland, 172 F.2d 205, 209 (1949); DelVecchio v. Illinois Dept. of Corrections, 8 F.3d 509, 514 (7th Cir. 1993) (emphasis added).

Wherefore, Petitioner seeks this **EXTREME EMERGENCY** relief requested in this Writ and/or the issuance of the Writ itself to cease apparent unlawful deprivations of their properties in the State/County Court without due process and/or equal protection of the law. The relief requested is fully laid out herein and within Petitioners Injunction request, Appendix A.

Petitioners are requesting due process and equal protection of the law by the issuance of an injunction, or any other proper and just relief, to restrain the theft, unlawful deprivation, of their properties at the hands of the government and their agents of Franklin County, Ohio. The lower courts' failure to do so is an apparent arbitrary

and capricious act amounting to Judicial usurpation. The Federal Court has issued injunctions for other similar situated parties who have and/or are being denied due process and equal protection of the law by governments in violation of Constitutional and Supreme federal statutory rights, privileges, and immunities, therefore Petitioners demand the equal protection under law that is due to them, respectfully without further delay.

> "Inherent in every judicial decision is a declaration and interpretation of a general principle or rule of law. Marbury v. Madison, 1 Cranch 137, 177-78 (1803). This declaration of law is authoritative to the extent necessary for the decision, and must be applied in subsequent cases to similarly situated parties. James B. Beam Distilling Co. v. Georgia, 501 U.S. 529, 544 (1991); Cohens v. Virginia, 6 Wheat. 264, 399 (1821)." ANASTAOFF v. UNITED STATES, 223 F.3d.898 (8th Cir.2000).
>
> Lower Federal courts **"may not adopt what the Supreme Court has expressly rejected, [and must] obediently abide the mandate[s] in [their decisions]."** Griffin v. Breckinridge, 403 U.S. 88 (1971) (emphasis added).
>
> "True it is that in Kees v. Watertown, 19 Wall. 107, 123, 22 L. ed. 72, 77, it was said: 'Whether in fact the individual has a defense to the debt, or by way of exemption, or is without defense, is not important. To assume that he has none, and therefore that he is entitled to no day in court, is to assume against him the very point he may wish to contest.'" LOUISVILLE & N R CO v. SCHMIDT, 177 U.S. 230 (1900).
>
> "'It is a rule as old as the law, and never

more to be respected than now, that no one shall be personally bound until he has had his day in court; by which is meant until he has been duly cited to appear, and has been afforded an opportunity to be heard. Judgment without such citation and opportunity wants all the attributes of a judicial determination; it is judicial usurpation and oppression, and never can be upheld where justice is justly administered.'" OLD WAYNE MUT. LIFE ASS'N v. MCDONOUGH, 204 U.S. 8 (1907).

"If it were shown at a hearing that the appellants had defaulted on their contractual obligations, it might well be that the sellers of the goods would be entitled to repossession. But even assuming that the appellants had fallen behind in their installment payments, and that they had no other valid defenses, that is immaterial here. The right to be heard does not depend upon an advance showing that one will surely prevail at the hearing. "To one who protests against the taking of his property without due process of law, it is no answer to say that in his particular case due process of law would have led to the same result because he had no adequate defense upon the merits." Coe v. Armour Fertilizer Works, 237 U.S. 413, 424 . It is enough to invoke the procedural safeguards of the Fourteenth Amendment that a significant property interest is at stake, whatever the ultimate outcome of a hearing on the contractual right to continued possession and use of the goods." FUENTES v. SHEVIN, 407 U.S. 67, 92 S. Ct. 1983, 32 L. Ed. 2d 556 (1972).

"The Supreme Court consistently has held that some form of hearing is required before an individual is finally deprived of a property interest..." Aronson v. Akron, 6th Cir. (1997).

"Applying this test, the Court usually has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property. See, e. g., Cleveland Board of Education v. Loudermill, 470 U.S. 532, 542 (1985) ("`[T]he root requirement' of the Due Process Clause" is "`that an individual be given an opportunity for a hearing before he is deprived of any significant protected interest'"; hearing required before termination of employment (emphasis in original)); Parham v. J. R., 442 U.S. 584, 606 -607 (1979) (determination by neutral physician whether statutory admission standard is met required before confinement of child in mental hospital); Memphis Light, Gas & Water Div. v. Craft, 436 U.S. 1, 18 (1978) (hearing required before cutting off utility service); Goss v. Lopez, 419 U.S. 565, 579 (1975) (at minimum, due process requires "some kind of notice and . . . some kind of hearing" (emphasis in original); informal hearing required before suspension of students from [494 U.S. 113, 128] public school); Wolff v. McDonnell, 418 U.S. 539, 557 -558 (1974) (hearing required before forfeiture of prisoner's goodtime credits); Fuentes v. Shevin, 407 U.S. 67, 80 -84 (1972) (hearing required before issuance of writ allowing repossession of property); Goldberg v. Kelly, 397 U.S. 254, 264 (1970) (hearing required before termination of welfare benefits)." ZINERMON v. BURCH, 494 U.S. 113

(1990).

"The constitutional requirement that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state is necessarily to be interpreted in connection with other provisions of the Constitution, and therefore no state can obtain in the tribunals of other jurisdictions full faith and credit for its judicial proceedings if they are wanting in the due process of law enjoined by the fundamental law. 'No judgment of a court is due process of law, if rendered without jurisdiction in the court, or without notice to the party.' Scott v. McNeal, 154 U.S. 34, 46 , 38 S. L. ed. 896, 901, 14 Sup. Ct. Rep. 1108. No state can, by any tribunal or representative, render nugatory a provision of the supreme law. And if the conclusiveness of a judgment of decree in a court of one state is questioned in a court of another government, Federal or state, it is open, under proper averments, to inquire whether the court rendering the decree or judgment had jurisdiction to render it. Such is the settled doctrine of this court. In the leading case of Thompson v. Whitman, 18 Wall. 457, 468, 21 L. ed. 897, 901" OLD WAYNE MUT. LIFE ASS'N v. MCDONOUGH, 204 U.S. 8 (1907).

"The interpretation in Ex parte Virginia of Congress' intent in enacting the Civil Rights Acts has not lost its force with the passage of time. In Mitchum v. Foster, supra, the Court found 1983 to be an explicit exception to the anti-injunction statute, citing Ex parte Virginia for the proposition that the "very purpose of 1983 was to interpose the federal

courts between the States and the people, as guardians of the people's federal rights - to protect the people from unconstitutional action under color of state law, `whether that action be executive, legislative, or judicial.'" "407 U.S., at 242 . PULLIAM v. ALLEN, 466 U.S. 522 (1984).

"[I]t is established practice for [the U.S. Supreme] Court to sustain the jurisdiction of federal courts to issue injunctions to protect rights safeguarded by the Constitution and to restrain individual state officers from doing what the 14th Amendment forbids the state to do" BELL v. HOOD, 327 U.S. 678 (1946).

Respectfully submitted,

I, Lisa Barclay, and I, Ajamu M. Kafele, declare under the penalty of perjury that the foregoing is true, correct, and not misleading. And that I am competent to testify to the foregoing matters.

Executed on April 11, 2003.

s/Lisa Barclay
Lisa Barclay

s/Ajamu M. Kafele
Ajamu M. Kafele
947 E. Johnstown Rd., #142
Gahanna, Ohio 43230
614.520.4553

APPENDIX G

APPENDIX G

APPENDIX G

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

In re: Lisa Barclay
Ajamu M. Kafele

Petitioners

Apps. Case No. 03-3530
Dist. Case No. 03-0184

EMERGENCY VERIFIED MOTION TO AMEND/SUPPLEMENT WRIT OF MANDAMUS; REQUEST FOR DECISION/ORDER WITHIN THREE (3) DAYS DUE TO THE IMPENDING EXTREME EMERGENCY

1. Petitioners Lisa Barclay and Ajamu M. Kafele (herein after Petitioners or Barclay or Kafele) herein request that the Writ of Mandamus be amended to mandate that Judge Sargus carries out his duty in Case 03-0184, and recuse/disqualify himself from this District case immediately. The basis for support of this is found in the attached Appendix A.

2. Petitioners have legitimate and viable causes of action, so it appears based on Federal court precedents and the case should immediately move forward. "[A]bsent some other bar to the suit, a claim either is cognizable under §1983 and should immediately go forward, or is not cognizable and should be dismissed." EDWARDS et al. v. BALISOK, 520 U.S. 641; 117 S. Ct. 1584 (1996). This case appears to be intentionally and willfully being delayed by the continual presiding of Judge Sargus.

3. Petitioners, again request immediate action as mandated by law, as requested in this Writ of Mandamus, since the lower Court Judge, apparently, feels compelled to not com-

ply with the law and judicial precedents that support the injunction demand and the recusal disqualification demand. Petitioners appear to be entitled to their request as a matter of law, and no viable defense in law appears to exist to deny the relief sought. **Barclay and Kafele request that this Court Order the relief sought within three (3) days, or issue a preliminary injunction pending the resolution of this Writ due to the existing extreme emergency that is resulting in the unlawful and illegal deprivation of their properties, and restraining of Barclay's and Kafele's liberties with regard to the properties.** Prompt action appears to be the duty of this Court and its Judges, when the need is apparent and exist. "Public officials, whether governors, mayors or police, legislators or judges, who fail to make decisions when they are needed or who do not act to implement decisions when they are made do not fully and faithfully perform the duties of their offices. SCHEUER v. RHODES, 416 U.S. 232 (1974).

Respectfully submitted,

I, Lisa Barclay, and I, Ajamu M. Kafele, declare under the penalty of perjury that the foregoing is true, correct, and not misleading. And that I am competent to testify to the foregoing matters.

Executed on April 23, 2003.

s/Lisa Barclay
Lisa Barclay

s/Ajamu M. Kafele
Ajamu M. Kafele
947 E. Johnstown Rd., #142
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614.520.4553

Appendix A
Of Amend/Supplement Writ of Mandamus to 6th Circuit

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Lisa Barclay,
Ajamu M. Kafele

Plaintiffs

Case No. 03-CV-184
Judge Sargus

Vs.

FRANKLIN COUNTY, OHIO, et al.
Defendants

(1) VERIFIED EXTREME EMERGENCY PLEADING OF SPECIAL MATTER PURSUANT TO FED. R. CIV. P.-9 DEMANDING A FAIR AND IMPARTIAL TRIBUNAL AS AN OPERATION OF LAW THAT COMPLIES WITH THE LAW, U.S. SUPREME COURT DECISIONS, AND THE DUTY OF A JUDGE;

(2) VERIFIED EXTREME EMERGENCY MOTION AND DEMAND TO STAY PROCEEDINGS UNTIL JUDGE SARGUS IS REMOVED FROM PRESIDING OVER THIS CASE, OR UNTIL CAUSE IS SHOWN THAT JUDGE SARGUS IS *NOT* PARTIAL, BIAS, AND/OR HAS A PREJUDICED TOWARDS LISA BARCLAY AND AJAMU M. KAFELE, AND THE ADMINISTERING OF JUSTICE WITH REGARD TO THEIR (PERSONS) CLAIMS, AND DOES NOT HAVE AN INTEREST IN THE OUTCOME OF THIS CASE;

(3) PLAINTIFFS' AFFIDAVIT OF APPARENT, AND BY NECESSARY INFERENCE, LACK OF IMPARTIALITY,

BIAS AND/OR PREJUDICE OF JUDGE EDMUND SARGUS PURSUANT TO 28 U.S.C. § 144 AND § 455 ET SEQ. REQUIRING AN IMMEDIATE SUA SPONTE DISQUALIFICATION AND/OR RECUSAL.

ORAL ARGUMENT REQUESTED

"A party is entitled to present his case by oral or documentary evidence,...and the transcript of testimony and exhibits together with the pleadings constitute the exclusive record for decision...The parties are entitled to know the findings and conclusions on all of the issues of fact, law, or discretion presented on the record." BUTZ v. ECONOMOU, 438 U.S. 478 (1978).

Lower State and Federal courts "may not adopt what the Supreme Court has expressly rejected, [and must] obediently abide the mandate[s] in [their decisions]." GRIFFIN v. BRECKINRIDGE, 403 U.S. 88 (1971) (emphasis added).

"A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases. But **our system of law has always endeavored to prevent even the probability of unfairness**. To this end no man can be a judge in his own case and **no man is permitted to try cases where he has an interest in the outcome. That interest cannot be defined with precision. Circumstances and relationships must be considered**. This Court has said, however, that "every procedure which would offer a possible temptation to the average man as a judge...not to hold the balance nice, clear and true between the State and the accused, denies the latter due process of law." Tumey v. Ohio, 273 U.S. 510, 532. Such a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties. But to perform its high function in the best way "**justice**

must satisfy the appearance of justice." Offutt v. United States, 348 U.S. 11, 14." IN RE MURCHISON, 349 U.S. 133 (1955) (emphasis added).

FACTS OF THIS MATTER

1. Lisa Barclay and Ajamu M. Kafele, herein after Plaintiff's, Barclay or Kafele, have both had interactions with Judge Sargus in other cases (C2-02-895, C2-02-1055) of this Court, which gives them probable cause to believe, and such belief appears to be supported by, not limited to, Supreme Court governing law, that Judge Sargus has blatantly, and with reckless disregard for the rights of Barclay and Kafele willfully or by gross negligence taking actions that clearly show that he is either unable or unwilling to abide by his Oath of Office (duty) and administer the law without respect to persons, as well as follow the mandates of the higher courts and acts of congress. **Barclay and Kafele are unable and/or restrained pursuant to the *laws of necessity* to proceeded any further in this case because it is beyond apparent that they will not received a fair and impartial proceeding, in part and in whole, in this case with Judge Sargus presiding.**

2. Plaintiffs have probable cause to believe, and such belief appears to be supported by, not limited to, Supreme Court governing law, that the Judge Sargus has shown in the other said cases, and in this instant case, that he is either unable or unwilling to be impartial, unbiased, and avoid prejudicial actions in proceedings regarding Barclay and Kafele.

3. Plaintiffs have probable cause to believe that the Judge Sargus' apparent unlawful actions to the detriment of Plaintiff's are being carried out because Barclay and Kafele are proceeding in their civil actions as non-represented litigants, and that Judge Sargus is not interested in seeing that the law is upheld but that Barclay and Kafele do not obtain

their due justice against those that have injured and harmed them, and seeks to favor the adverse party regardless of the mandates of law.

4. Judge Sargus' apparent lack of impartiality, bias, and/or prejudice towards Kafele was clearly and convincingly expressed in his final-Order in case C2-02-0895 where he stated that the Court had no jurisdiction over the matter but still attempted to excise jurisdiction by issuing an Order demanding that Kafele comply with a previous court order regarding discovery. As well as, he should have known or could have discovered that such demand would clearly cause Kafele to aid and abet the violation of federal law.

5. Judge Sargus' apparent lack of impartiality, bias, and/or prejudice towards Barclay is made clear and convincing in his intentional delay and refusal to rule on emergency matters in case C2-02-1055 which clearly questioned the jurisdiction of the District court on two independent parts to entertain the merits of a Bankruptcy Court decision that appears to be an egregious arbitrary act of the bankruptcy court judge, fully supported by the law itself and Supreme Court governing law. Such action appeared to be for the express purpose of allowing Barclay, and Kafele, to be harmed by actions that amount to Judicial Usurpation, to say the least.

6. Judge Sargus' apparent lack of impartiality, bias, and/or prejudice towards Barclay and Kafele is made clear and convincing in this instant case, in his egregious action to refusal to issue an injunction that is mandated by law, and to hold a hearing to impede the uncontested action by Defendants of this case, who's acts have been alleged, with prima facie evidence (affidavits) to be depriving Plaintiffs' of their property void of fundamental and rudimentary demands of due process of law; without jurisdiction, and certainly without Constitutional and lawful authority to do so.

7. Plaintiffs believe that Judge Sargus specifically lacks im-

partiality, has a bias an/or prejudice in this matter pursuant to 28 U.S.C. § 455(b)(1, 4,5):

a) Personal knowledge of disputed evidentiary facts in this proceeding/case can clearly be found from what Judge Sargus obtained from presiding over case C2-02-1055, even though the case has been reassigned. Knowledge of the facts still remain and are a basis for this instant action against Franklin County, Ohio, et al.

b) Additionally, Judge Sargus was made aware, or should have known, or could have discovered, in case C2-02-1055 that Plaintiffs' properties (real and monetary) were being deprived without notice and an opportunity to be heard in open court and lawful authority and refused to act as his duty and the law requires. Judge Sargus knows, or should know, that certain properties of this case are protected by *Lis Pendens* and/or *Pendente Lite* law.

c) Furthermore, Plaintiffs believe, and it could be, and is, reasonably questioned, and/or needs to be investigated, as to whether or not Judge Sargus has some degree of interest in the outcome of this case that could affect real property foreclosure civil actions carried out by all Counties of the State of Ohio and their Judges because his wife, Jennifer Sargus, is one of two Common Pleas Judge for Belmont County, Ohio who may have and/or be entering judgments to foreclose on people's property without due process of law, the same as has been alleged, and is sustainable by the record of Franklin County Court, of the Common Pleas Judges of Franklin County, Ohio. Plaintiffs have personal knowledge that it is common practice for several Counties in Ohio (Cuyahoga, Delaware, Licking), and potentially every County in Ohio, to

carry out actions to deprive the people of Ohio, or others, of their property without due process of clear and well-established law as stated in the complaint of this action. Such potential interest cannot be defined with precision. See IN RE MURCHISON, 349 U.S. 133 (1955) above.

8. Judge Sargus' apparent lack of impartiality, bias, and/or prejudice towards Barclay and Kafele is made clear and convincing in this instant case, and evidence of his preconceived notions (bias/prejudice) are expressed in his, and by all appearances in law, void order denying the injunction request and a hearing of the Plaintiff's. The evidence of this can be seen when he comments that Plaintiffs could be subject to sanctions for "any additional pleadings...made in bad faith" due to the other "multiplicity of lawsuits filed by Plaintiffs[.]" Such appears to infer that there was some sort of bad faith pleading filed at some point in time, in some case or this case in which Judge Sargus is arriving at a conclusion that Plaintiffs' have acted in bad faith. However, Plaintiff's are unaware and lack any knowledge as to the truth of that matter, and doubt that any evidence can be found to support it, let alone proven. Judge Sargus does not state the facts and/or law he is relying upon in making such statement, and Judge Sargus may not act according to his will. It appears that Judge Sargus is trying to intimidate Plaintiffs from petitioning, and/or deny them access to the Court to petition the government to redress their grievances in defiance of the U.S. Constitution's, 1st Amendment. This has clearly been done by denying Plaintiffs a hearing as previously mentioned, not to mention the relief requested, when uncontested prima facie evidence is on the record of *Coram Non Judice* and *Ultra Vires* actions of the Defendants. The jurisdiction of another Court cannot be presumed when the question is raised, and when Constitutional and legal rights are at stake.

9. Given the above Plaintiff's have probable cause and belief that this case has and is proceeding in violation of the strictures of due process of law that require a fair and impartial tribunal for the adjudication of issues/claims. That the mere appearance of justice is absent because Judge Sargus' impartiality, bias and/or prejudice in this action can reasonably be questioned by an independent, unbiased, observer. More so, the facts and evidence appear to establish the true existence of partiality, bias and/or prejudice. This case has just begun and Barclay and Kafele feel that justice will be, and has taking a "back seat" with Judge Sargus presiding, based on their past and present interactions with him. Barclay and Kafele feel that Judge Sargus has and is interfering with the rights they have to a fair and impartial tribunal. This could not be more clear when a Judge will proceed to ignore that which makes for uncivilized actions and concepts of unordered liberty-the deprivation of life, liberty or property by the government and its agents without rendering of a notice and opportunity to be heard, not withstanding lack of jurisdiction or lawful authority. How is that the forgoing does not show a lack of impartiality, bias, and/or prejudice in this case existing on the part of Judge Sargus, thereby negating the a fair and impartial tribunal?

MEMORANDUM OF POINTS AND AUTHORITES IN SUPPORT

10. A judge may not preside over a matter pertaining to them without violating due process of law. Such is the case with this verified pleading demanding sua sponte disqualification/recusal due to lack of impartiality, bias, and/or prejudice as an operation of law. This was expressed in BERGER v. U S, 255 U.S. 22 (1921), which stated so eloquently with respect to the law(s) of disqualification/recusal of Judge and his/her duty pertaining to it, the High Court held:

"[T]he primary question under it is the duty

and power of the judge, whether the filing of an affidavit of personal bias or prejudice compels his retirement from the case or whether he can exercise a judgment upon the facts affirmed and determine his qualification against them and the belief based upon them?

We are of opinion, therefore, that an affidavit upon information and belief satisfies the section and that upon its filing, if it shows the objectionable inclination or disposition of the judge, which we have said is an essential condition, it is his duty to 'proceed no further' in the case. And in this there is no serious detriment to the administration of justice nor inconvenience worth of mention, for of what concern is it to a judge to preside in a particular case; of what concern to other parties to have him so preside, and any serious delay of trial is avoided by the requirement that the affidavit must be filed not less than ten days before the commencement of the term...

[T]hat its solicitude is that the tribunals of the country shall not only be impartial in the controversies submitted to them but shall give assurance that they are impartial, free, to use the words of the section, from any 'bias or prejudice' that might disturb the normal course of impartial judgment. And to accomplish this end the section withdraws from the presiding judge a decision upon the truth of the matters alleged. Its explicit declaration is that upon the making and filing of the affidavit, the judge against whom it is directed 'shall proceed no further therein, but another judge shall be desig-

> nated in the manner prescribed in ... section twenty-three to hear such matter.' And the reason is easy to divine. To commit to the judge a decision upon the truth of the facts gives chance for the evil against which the section is directed. The remedy by appeal is inadequate. It comes after the trial and if prejudice exist it has worked its evil and a judgment of it in a reviewing tribunal is precarious. It oes there fortified by presumptions, and nothing can be more elusive of estimate or decision than a disposition of a mind in which there is a personal ingredient...
>
> We come then to the questions certified and to the first we answer, Yes; that is, that the affidavit of prejudice is sufficient to invoke the operation of the act. To the second we answer that to the extent we have indicated, Judge Landis had a lawful right to pass upon the sufficiency of the affidavit. To the third we answer, No; that is, that Judge Landis had no lawful right or power to preside as judge on the trial of defendants upon the indictment."

11. Also see, MAYBERRY v. PENNSYLVANIA, 400 U.S. 455 (1971), (decision reversed because of conflicts with presiding judge and party of the case, due process of law required another judge to oversee the proceedings).

12. The recusal/disqualification of a judge is not left only to an actual bias, "Section 455(a) reads in its entirety:

> Any justice, judge, or magistrate of the United States **shall** disqualify himself in any proceeding in which his impartiality might reasonably be questioned." (emphasis added)...

> [A] judge's self-appraisal that he or she is able to preside impartially over the case is irrelevant to the Section 455(a) balance." CLAY v. DOHERTY, 608 F.Supp. 295 (N.D. Ill. 1985).

Recusal is not intended to protect litigants from actual bias in their judge but rather to promote public confidence in the impartiality of the judicial process, LILJEBERG v. HEALTH SERVICES ACQUISITION CORP., 486 U.S. 847, 108 S.Ct. 2194 (1988) (what matters is not the reality of bias or prejudice but its appearance); UNITED STATES v. BALISTRIERI, 779 F.2d 1191 (7th Cir. 1985); it [section 455(a)] is directed against the appearance of partiality. UNITED STATES v. MURPHY, 768 F.2d 1518 (7th Cir. 1985). A judge **MUST** sua sponte recuse himself if he gives the hint of even an appearance of partiality; the judge's duty is self-executing. *UNITED STATES v. BALISTRIERI;* TAYLOR v. O'GRADY, 888 F.2d 1189 (7th Cir. 1989).

13. Pass acts of a Judge are considered "expressions" by the Judge that can require recusal.

> "Under 144 and its predecessor, there came to be generally applied in the courts of appeals a doctrine, more standard in its formulation than clear in its application, requiring - to take its classic formulation found in an oft-cited opinion by Justice Douglas for this Court - that **"[t]he alleged bias and prejudice to be disqualifying [under 144] must stem from an extrajudicial source." United States v. Grinnell Corp., 384 U.S. 563, 583 (1966). We say that the doctrine was less than entirely clear in its application for several reasons. First, Grinnell (the only opinion of ours to recite the doctrine) clearly meant by "extrajudicial source" a source outside the judicial proceeding at hand - which would include as extrajudi-**

cial sources earlier judicial proceedings conducted by the same judge (as are at issue here). Yet many, perhaps most, courts of appeals considered knowledge (and the resulting attitudes) that a judge properly acquired in an earlier proceeding not to be "extrajudicial." See, e.g., Lyons v. United States, 325 F.2d 370, 376 (CA9), cert. denied, 377 U.S. 969 (1964); Craven v. United States, 22 F.2d 605, 607-608 (CA1 1927). Secondly, the doctrine was often quoted as justifying the refusal to consider trial rulings as the basis for 144 recusal. See, e.g., Toth v. Trans World Airlines, Inc., 862 F.2d 1381, 1387-1388 (CA9 1988); Liberty Lobby, Inc. v. Dow Jones & Co., 838 F.2d 1287, 1301 (CADC), cert. denied, 488 U.S. 825 (1988). **But trial rulings have a judicial expression, rather than a judicial source. They may well be based upon extrajudicial knowledge or motives**. Cf. In re International Business Machines Corp., 618 F.2d 923, 928, n. 6 (CA2 1980). And finally, **even in cases in which the "source" of the bias or prejudice was clearly the proceedings themselves (for example, testimony introduced or an event occurring at trial which produced unsuppressible judicial animosity), the supposed doctrine would not necessarily be applied**. See, e.g., Davis v. Board of School Comm'rs of Mobile County, 517 F.2d 1044, 1051 (CA5 1975), cert. denied, 425 U.S. 944 (1976) (doctrine has "pervasive bias" exception); Rice v. McKenzie, 581 F.2d 1114, 1118 (CA4 1978) (doctrine "has always had limitations"). LITEKY v. UNITED STATES, 510 U.S. 540 (1994).

14. "Indeed, no more than [Affidavit] is necessary to make the prima facie case." UNITED STATES v. KIS, 658 F.2d 526 (7th Cir. 1981); certiorari denied, 50 U.S.L.W. 2169; S.Ct. March 22, 1982, and NEAL v. STATE OF DELAWARE, 103 U.S. 370 (1880) (finding an affidavit prima facie evidence of a denial of Constitutional Rights).

15. "The Due Process Clause of the Fifth Amendment provides that "No person shall . . . be deprived of life, liberty, or property, without due process of law . . . ." This Court has held that the Due Process Clause protects individuals against two types of government action. So-called "substantive due process" prevents the government from engaging in conduct that "shocks the conscience," Rochin v. California, 342 U.S. 165, 172 (1952), or interferes with rights "implicit in the concept of ordered liberty," Palko v. Connecticut, 302 U.S. 319, 325 - 326 (1937)." UNITED STATES v. SALERNO, 481 U.S. 739 (1987).

16. "It is not the function of our Government to keep the citizen from falling into error; it is the function of the citizen to keep the Government from falling into error... **A catalogue of rights was placed in our Constitution...to protect the individual...and neither statutes which put those rights at the mercy of officials nor judicial decisions which put them at the mercy of the mob are consistent with its text or its spirit**." COMMUNICATIONS ASSN. v. DOUDS, 339 U.S. 382 (1950). (emphasis added)

17. "The guarantees of the Bill of Rights are the protecting bulwarks against the reach of arbitrary power." GLASSER v. U.S., 315 U.S. 60 (1942).

18. [T]he general rule, which long prevailed, that a federal official may not with impunity ignore the limitations which the controlling law has placed on his powers. BUTZ v. ECONOMOU, 438 U.S. 478 (1978).

19. "The touchstone of due process is protection of the in-

dividual against arbitrary action of government," Dent v. West Virginia, 129 U.S. 114, 123 (1889). WOLFF v. McDONNELL, 418 U.S. 539 (1974).

20. "The United States is forbidden by the fundamental law to take either life, liberty, or property without due process of law, and **its courts are included in this prohibition**." Bass v. Hoagland, 172 F.2d 205, 209 (1949); DelVecchio v. Illinois Dept. of Corrections, 8 F.3d 509, 514 (7th Cir. 1993) (emphasis added).

Wherefore, the proper, correct, just, necessary and lawful actions, with regard to all that is expressed and implied, raised and presented in this affidavit and pleading should be brought into existence, without delay.

Plaintiffs' should not be, as a matter of due process of law, subject to any recourse for failing to respond to Defendants' motions to dismiss, which appears to be wholly without merit and unsubstantiated by any true interpretation of any law known to exist in this Country, and a violation of Fed. R. Civil P.-11 and 28 U.S.C. § 1927. Such should be dismissed sua sponte, so it would appear. The jurisdiction and lawful authority cannot be presumed particularly when averments to the contrary are on the record, nor can the full faith and credit be given to actions of the state when they are in contrast to fundamental and rudimentary law-due process and equal protection of the law for all. This is, or should be, common knowledge to Judges and attorneys. **MANDATORY JUDICIAL NOTICE is given of the following**:

> "The constitutional requirement that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state is necessarily to be interpreted in connection with other provisions of the Constitution, and therefore no state can obtain in the tribunals of other jurisdictions full faith and credit for its judicial proceedings if they are wanting in the

due process of law enjoined by the fundamental law. 'No judgment of a court is due process of law, if rendered without jurisdiction in the court, or without notice to the party.' Scott v. McNeal, 154 U.S. 34, 46 , 38 S. L. ed. 896, 901, 14 Sup. Ct. Rep. 1108. No state can, by any tribunal or representative, render nugatory a provision of the supreme law. And if the conclusiveness of a judgment of decree in a court of one state is questioned in a court of another government, Federal or state, it is open, under proper averments, to inquire whether the court rendering the decree or judgment had jurisdiction to render it. Such is the settled doctrine of this court. In the leading case of Thompson v. Whitman, 18 Wall. 457, 468, 21 L. ed. 897, 901" OLD WAYNE MUT. LIFE ASS'N v. MCDONOUGH, 204 U.S. 8 (1907).

Respectfully submitted,

I, Lisa Barclay, and I, Ajamu M. Kafele, declare under the penalty of perjury that the foregoing is true, correct, and not intended to mislead, and presented in good faith. And that I am competent to testify to the foregoing matters.

Executed on April 9, 2003.

s/Lisa Barclay
Lisa Barclay

s/Ajamu M. Kafele
Ajamu M. Kafele
Plaintiffs
947 E. Johnstown Rd., #142
Gahanna, Ohio 43230
614.520.4553

CERTIFICATE OF SERVICE

The undersigned hereby certifies that **this pleading is made in good faith** and a true copy of the VERIFIED EXTREME EMERGENCY PLEADING OF SPECIAL MATTER (sic) was served by U. S. regular Mail, postage prepaid, this 9th day of April, 2003 upon the following at the stated address.

1) Mary Jane Martin/Ron O'Brien, attorney for Franklin County, Ohio and the "county defendants", at 373 S. High St., 14th Flr., Columbus, Ohio 43215;
2) CNA, CNA Plaza, 325 Wabash Ave., Chicago, Illinois 60685;
3) G. Todd Hoffpauir, attorneys for "Judicial Defendants" (personal capacity), at 36 E. Seventh St., Ste. 2100, Cincinnati, Ohio 45202.

s/Ajamu M. Kafele
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